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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,467	04/22/2004	Hiroyuki Hagano	26BT-011-CIP	6420
23400 7590 09/19/2007 POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191			EXAMINER MAI, TRI M	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/829,467	Applicant(s) HAGANO ET AL.	
	Examiner Tri M. Mai	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/13/07</u> . | 6) <input type="checkbox"/> Other: ____ |

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1. Claims 1-18 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent No. 6,308,852. Although the conflicting claims are not identical, they are not patentably distinct from each other because It would have been obvious to one of ordinary skill in the art to eliminate certain element when those certain elements are not desired. The functionality of claims 1-18 in this present application does not impart any structure over the device in U.S. Patent No. 6,308,852.
2. Figs 7B-7E are confusing. It is noted that portion FNc and FNd are the same part. Figs. 7B-7E shows FNd as a space. It is unclear where is portion Fne comes from.
3. The “means for urging”, and “a relative rotation” have no antecedent in the specification.
4. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is unclear what comprise the projection in claim 1. The specification defines the projection as the handle portion 42 (pg. 10, ln. 12). The claim then recites the projection engages the closer. It is unclear where is this projection engages the closer. Applicant is required to identify the parts shown in the drawings and how it is defined in the specification.

In claim 1, it is unclear what is meant by “more than 90 degrees and 180 degrees”.

Claims 1, and 8 are incomplete. The device as set forth in claim 1 set for the cap device and transmits a torque. However, there is no structure being recited to enable a torque between the closer and the operating portion. Thus the device is incomplete. It is noted that the only torque transmission device is the spring 182. However this element is not recited in the claims.

In claims 3, “said main body side rib” has no antecedent basis .

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In claim 3, and 12 it is unclear where are the non-torque state, and first and second switching states. Please identify the non-torque state and switching states in the drawings.

It is unclear what are the “means for urging”, and “a relative rotation” in claim 5.

5. Claims 1, 2, 8-11, and 14-18 are rejected under 35 U.S.C. 102 (b) as being anticipated by Harris (5794806). Harris teaches a cap having a closer 62 with an operating portion with a projection (54 in Fig. 1) passing through the center of the upper part of the closer and bridging in a radial direction, the operation portion being rotatable as claimed.

Regarding claim 1, with respect to the orientation of the device with the inlet, it is submitted that the claimed device is a fuel cap device, and the device in Harris meets the claimed device with respect to the various structures as claimed. The functional language does not impart any structure over the device in Harris.

Regarding claim 3, note the device having a cover 54,

Regarding claim 9, it is noted that the functional language does not impart any structure over the device in Harris.

Regarding claims 14-18, it is submitted that these claims set forth the functional language that does not impart any structure over the device in Harris. In other words, the device in Harris has a torque mechanism. Even more so, as portion 222 going through portion 242 in Fig. 14. The torque is changed from a first predetermined torque to a second predetermined force as claimed. Furthermore, it is noted that there are also torques exerted on wall 230 and 232 thus these torque are higher as compared to the torque exerted on wall 218, 220 as claimed.

6. Claims 1-9, 13, 16, are rejected under 35 U.S.C. 102(b) as being anticipated by Harris (4765505). Harris '505 teaches a fuel cap with an opening portion, and the opening angle is at

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the angle more than 90 degrees as shown as "96" in Fig. 3. The non-tooqued state is when the closer closes the inlet and no force is acting on the device.

Regarding claim 3, note the cover side retaining part 94, the plate side retaining part 62, the guiding part along side 96, and the retaining part side ribs 42 on the closer main body. Note the first switching state as shown in the broken lines in Fig. 3 as claimed.

Note the angle 96 is approximately 180 degrees (col. 7, ln. 24).

7. Claims 1- 9, 13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris (6179148). Harris '148 teaches a fuel cap with an operating portion, and the operating angle is at the angle more than 90 degrees. The non-torque state is when the closer closes the inlet and no force is acting on the device.

Regarding claim 3, note the cover side retaining part 42, the plate side retaining part 116, the guiding part along side 84, and the retaining part side ribs 56 on the closer main body. Note the first switching state as shown in Fig. 3 and the second switching state is shown in the broken line.

Note the angle 96 is approximately 180 degrees (col. 7, ln. 24).

8. Claim 1, 2, 8-11, and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al. (5791507). Harris teaches a fuel cap device with a closer, a toque mechanism, a spring, and the projection at 34.

Regarding claim 1, with respect to the orientation of the device with the inlet, it is submitted that the claimed device is a fuel cap device, and the device in Harris meets the claimed device with respect to the various structures as claimed. The functional language does not impart any structure over the device in Harris '507.

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Regarding claims 14-18, it is submitted that these claims set forth the functional language that does not impart any structure over the device in Harris '507. In other words, the device in Harris has a torque mechanism.

9. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2000-264079. JP 079 teaches a fuel cap device with a closer, a torque mechanism, a spring, and the projection at 9 for engagement with the retaining part 8.


10. Claims 1-18 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 2000-344266. JP 266 teaches the device as claimed.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tri M. Mai 
Primary Examiner
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